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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,858	11/26/2003	Prathyusha K. Salla	132958XX-A/YOD GEMS:0236	8733
7590	02/24/2006		EXAMINER FAULCON JR, LENWOOD	
Patrick S. Yoder Fletcher Yoder P.O. Box 692289 Houston, TX 77269-2289			ART UNIT 3762	PAPER NUMBER

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/723,858	<b>Applicant(s)</b> SALLA ET AL.	
	<b>Examiner</b> Lenwood Faulcon, Jr.	<b>Art Unit</b> 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) 1-20, 33-52, 65, 66 and 68-70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-32, 53-64, 67, 71 and 72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 1-9, 33-41, 65 and 68, and claims 10-20, 42-52, 66 and 69-70 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected species respectively, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on December 5, 2005.

2. Applicant's election with traverse of claims 21-32, 53-64, 67 and 71-72 in the reply filed on December 5, 2005, is acknowledged. The traversal is on the ground(s) that no pending claims are generic. This is not found persuasive because Examiner takes the position that none of the claims are generic.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 21-22, 24-32, 53-54, 56-64 and 71-72 are rejected under 35 U.S.C. 102(b) as being anticipated by Sano (U.S. Patent No. 5,701,897).

Sano teaches of an ultrasonic diagnosis apparatus and image displaying system for monitoring the movement of an organ comprising acquiring an electrocardiograph (13) which is electrical data representative of cardiac motion, an acceleration calculator

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(55) for acquiring non-electrical data representative of cardiac motion and an image system which can include data representative of respiratory motion (col. 7 lines 50-58). The system as taught by Sano is capable of detecting one or more periods of minimal motion (col. 2 lines 47-52).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 23 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sano (U.S. Patent No. 5,701,897) as applied to claims 21-22, 24-32, 53-54, 56-64 and 71-72 above.

Sano teaches that the system is capable of being applied to different types of organs (col. 38 lines 56-60), and thus it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the system as taught by Sano to include data of one or more proximate organs. Therefore, it would have been obvious to one having ordinary skill in the art to modify the system as taught by Sano to have the limitations of claims 23 and 55.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schaefer et al. (U.S. Patent No. 4,712,560), Crawford et al. (U.S.

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Patent No. 4,994,965), Lang et al. (U.S. Patent No. 6,358,208), Overall et al. (U.S. 2004/0260346).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lenwood Faulcon, Jr. whose telephone number is 571-272-6090. The examiner can normally be reached on Monday-Thursday from 9 to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D. Sykes, can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lenwood Faulcon, Jr.



George Manuel

Primary Examiner